



General Assembly

January Session, 2001

Amendment

LCO No. 8578

Offered by:

SEN. SULLIVAN, 5th Dist.

SEN. JEPSEN, 27th Dist.

SEN. PETERS, 20th Dist.

SEN. WILLIAMS, 29th Dist.

SEN. FONFARA, 1st Dist.

To: Subst. House Bill No. 6636

File No. 820

Cal. No. 527

"AN ACT CONCERNING PRIVATIZED PUBLIC RECORDS."

1 Strike out everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 1-200 of the general statutes is repealed and the
4 following is substituted in lieu thereof:

5 As used in this chapter, and in section 2 of this act, the following
6 words and phrases shall have the following meanings, except where
7 such terms are used in a context which clearly indicates the contrary:

8 (1) "Public agency" or "agency" means: [any]

9 (A) Any executive, administrative or legislative office of the state or
10 any political subdivision of the state and any state or town agency, any
11 department, institution, bureau, board, commission, authority or

12 official of the state or of any city, town, borough, municipal
13 corporation, school district, regional district or other district or other
14 political subdivision of the state, including any committee of, or
15 created by, any such office, subdivision, agency, department,
16 institution, bureau, board, commission, authority or official, and also
17 includes any judicial office, official, or body or committee thereof but
18 only [in] with respect to its or their administrative functions; [. "Public
19 agency" includes an]

20 (B) Any person to the extent such person is deemed to be the
21 functional equivalent of a public agency pursuant to law; or

22 (C) Any "implementing agency" as defined in section 32-222.

23 (2) "Meeting" means any hearing or other proceeding of a public
24 agency, any convening or assembly of a quorum of a multimember
25 public agency, and any communication by or to a quorum of a
26 multimember public agency, whether in person or by means of
27 electronic equipment, to discuss or act upon a matter over which the
28 public agency has supervision, control, jurisdiction or advisory power.
29 "Meeting" shall not include: Any meeting of a personnel search
30 committee for executive level employment candidates; any chance
31 meeting, or a social meeting neither planned nor intended for the
32 purpose of discussing matters relating to official business; strategy or
33 negotiations with respect to collective bargaining; a caucus of members
34 of a single political party notwithstanding that such members also
35 constitute a quorum of a public agency; an administrative or staff
36 meeting of a single-member public agency; and communication
37 limited to notice of meetings of any public agency or the agendas
38 thereof. A quorum of the members of a public agency who are present
39 at any event which has been noticed and conducted as a meeting of
40 another public agency under the provisions of the Freedom of
41 Information Act shall not be deemed to be holding a meeting of the
42 public agency of which they are members as a result of their presence
43 at such event.

44 (3) "Caucus" means a convening or assembly of the enrolled
45 members of a single political party who are members of a public
46 agency within the state or a political subdivision.

47 (4) "Person" means natural person, partnership, corporation, limited
48 liability company, association or society.

49 (5) "Public records or files" means any recorded data or information
50 relating to the conduct of the public's business prepared, owned, used,
51 received or retained by a public agency, or to which a public agency is
52 entitled to receive a copy by law or contract under section 2 of this act,
53 whether such data or information be handwritten, typed, tape-
54 recorded, printed, photostated, photographed or recorded by any
55 other method.

56 (6) "Executive sessions" means a meeting of a public agency at
57 which the public is excluded for one or more of the following
58 purposes: (A) Discussion concerning the appointment, employment,
59 performance, evaluation, health or dismissal of a public officer or
60 employee, provided that such individual may require that discussion
61 be held at an open meeting; (B) strategy and negotiations with respect
62 to pending claims or pending litigation to which the public agency or a
63 member thereof, because of [his] the member's conduct as a member of
64 such agency, is a party until such litigation or claim has been finally
65 adjudicated or otherwise settled; (C) matters concerning security
66 strategy or the deployment of security personnel, or devices affecting
67 public security; (D) discussion of the selection of a site or the lease, sale
68 or purchase of real estate by a political subdivision of the state when
69 publicity regarding such site, lease, sale, purchase or construction
70 would cause a likelihood of increased price until such time as all of the
71 property has been acquired or all proceedings or transactions
72 concerning same have been terminated or abandoned; and (E)
73 discussion of any matter which would result in the disclosure of public
74 records or the information contained therein described in subsection
75 (b) of section 1-210.

76 (7) "Personnel search committee" means a body appointed by a
77 public agency, whose sole purpose is to recommend to the appointing
78 agency a candidate or candidates for an executive-level employment
79 position. Members of a "personnel search committee" shall not be
80 considered in determining whether there is a quorum of the
81 appointing or any other public agency.

82 (8) "Pending claim" means a written notice to an agency which sets
83 forth a demand for legal relief or which asserts a legal right stating the
84 intention to institute an action in an appropriate forum if such relief or
85 right is not granted.

86 (9) "Pending litigation" means (A) a written notice to an agency
87 which sets forth a demand for legal relief or which asserts a legal right
88 stating the intention to institute an action before a court if such relief or
89 right is not granted by the agency; (B) the service of a complaint
90 against an agency returnable to a court which seeks to enforce or
91 implement legal relief or a legal right; or (C) the agency's consideration
92 of action to enforce or implement legal relief or a legal right.

93 (10) "Freedom of Information Act" means this chapter.

94 (11) "Governmental function" means the administration or
95 management of a program of a public agency, which program has
96 been authorized by law to be administered or managed by a person,
97 where (A) the person receives funding from the public agency for
98 administering or managing the program, (B) the public agency is
99 involved in or regulates to a significant extent such person's
100 administration or management of the program, whether or not such
101 involvement or regulation is direct, pervasive, continuous or day-to-
102 day, and (C) the person participates in the formulation of
103 governmental policies or decisions in connection with the
104 administration or management of the program and such policies or
105 decisions bind the public agency. "Governmental function" shall not
106 include the mere provision of goods or services to a public agency
107 without the delegated responsibility to administer or manage a

108 program of a public agency.

109 Sec. 2. (NEW) Each contract in excess of two million five hundred
110 thousand dollars between a public agency and a person for the
111 performance of a governmental function shall (1) provide that the
112 public agency is entitled to receive a copy of records and files related
113 to the performance of the governmental function, and (2) indicate that
114 such records and files are subject to the Freedom of Information Act
115 and may be disclosed by the public agency pursuant to the Freedom of
116 Information Act. No request to inspect or copy such records or files
117 shall be valid unless the request is made to the public agency in
118 accordance with the Freedom of Information Act. Any complaint by a
119 person who is denied the right to inspect or copy such records or files
120 shall be brought to the Freedom of Information Commission in
121 accordance with the provisions of sections 1-205 and 1-206 of the
122 general statutes.

123 Sec. 3. (NEW) Notwithstanding any other provision of the general
124 statutes, an agreement between a state agency and a foundation, as
125 defined in section 4-37e of the general statutes, shall not be deemed to
126 be a contract for the performance of a governmental function within
127 the meaning of section 2 of this act."